

# Exhibit C

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
MCALLEN DIVISION**

TEXAS BANKERS ASSOCIATION;  
RIO BANK, MCALLEN, TEXAS; and  
AMERICAN BANKERS ASSOCIATION

*Plaintiffs,*

v.

Case No: 7:23-cv-00144

CONSUMER FINANCIAL PROTECTION  
BUREAU; and ROHIT CHOPRA, in his official  
capacity as Director of the Consumer Financial  
Protection Bureau,

*Defendants.*

**DECLARATION OF VIRGINIA O'NEILL**

In accordance with 28 U.S.C. § 1746, Virginia O'Neill offers the following declaration:

1. I am the American Bankers Association's ("ABA") Executive Vice President for Regulatory Compliance and Policy and am responsible for consumer protection regulatory policy advocacy.
2. ABA is the voice of the nation's \$23.6 trillion banking industry, which is composed of small, regional, and large banks that together employ more than 2 million people, safeguard \$19.2 trillion in deposits, and extend \$12.2 trillion in loans. ABA advocates for banks before Congress, regulatory agencies, and the courts to drive pro-growth policies that help customers, clients, and communities thrive. ABA regularly advocates before the Consumer Financial Protection Bureau ("CFPB") to promote regulatory and supervisory policies that

protect consumers, while ensuring that markets for consumer financial products and services are fair, transparent, and competitive.

3. The purpose of this declaration is to discuss the effects of a rule finalized by the CFPB on March 30, 2023, to implement section 1071 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Final Rule”). Section 1071 amended the Equal Credit Opportunity Act (“ECOA”) to require financial institutions to collect and report to the CFPB certain data regarding applications for credit by women-owned, minority-owned, and small businesses. 15 U.S.C. §1691c-2.
4. Unless otherwise stated, this Declaration is based upon my personal knowledge and belief and/or upon my review of business records of ABA. If called as a witness, I could and would testify competently thereto.
5. ABA’s membership covers depository institutions offering small business loans in each compliance tier category covered by Final Rule (e.g.—2,500 hundred loans or more; 500 to 2,499 business loans; and 100 to 499 small business loans).
6. I have worked closely with many ABA members, including members of ABA’s 1071 Working Group, to understand how the Final Rule will affect member banks. I have also discussed with ABA members the substantial costs that they will incur to implement and comply on an annual basis with the Final Rule.
7. After the CFPB released a proposed rule to implement 1071, ABA conducted a survey of members in November 2021, to quantify the cost of implementing and complying with the proposed rule. 479 banks and savings associations operating in 40 states responded to the survey. Survey respondents ranged from banks with assets of less than \$500 million to more than \$75 billion. The results of that survey show:

- a. 88% of respondents stated they would need to hire more full-time employees (FTEs) to comply with the data collection and submission requirements of the proposed rule and to conduct fair lending analysis of the data. The mean number of new FTEs required was 3. However, some community banks indicated they would need to hire 10 FTE.
- b. 73% of survey respondents stated that to comply with the proposed data collection and reporting requirements, the bank would need to update commercial loan operating software at a median estimated cost of \$29,029.
- c. 33% of survey respondents stated that to comply with the proposed data collection and reporting requirements, the bank would need to purchase commercial loan operating software at a median estimated cost of \$131,133.
- d. 67% of survey respondents stated that to comply with the proposed data collection and reporting requirements, the bank would need to purchase software to assist with data submission to the CFPB at a median estimated cost of \$23,927.
- e. Survey respondents estimated the following additional one-time implementation costs to comply with the proposed rule (all cost estimates are median responses):
  - Preparing/planning: \$15,388
  - Testing validating computer systems: \$8483
  - Developing applications, forms, and disclosures: \$5971
  - Training staff and third parties: \$8734
  - Developing policies and procedures: \$5416
  - Legal and compliance review: \$7992
  - Post implementation review: \$9696

8. The data collection and reporting requirements of the Final Rule are almost identical to those of the proposed rule; therefore, the survey data provide accurate median estimates of the implementation costs required to comply with the Final Rule.
9. ABA has advised its members to begin implementation immediately in order to meet the compliance dates established by the Final Rule.
10. ABA members currently are taking steps to implement the Final Rule. As a result, our members are already incurring or are about to incur direct economic injury caused by the Final Rule.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 12<sup>th</sup> day of May, 2023 in Washington, DC.

A handwritten signature in black ink that reads "Virginia O'Neill". The signature is written in a cursive, flowing style.

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Virginia O'Neil